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OFFICE OF PETITIONS

In re Application of :
Ralph Corsini :
Application No. 10/684,613 : DECISION ON PETITION
Filed: 14 October, 2003 :
For: INTEGRATED FACEMASK :
FIREFIGHTING HOOD PACKING :
SYSTEM :

This is a decision on the petition filed on 7 June, 2005, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 31 December, 2004, for failure to submit a reply to the non-final Office action mailed on 30 September, 2004, which set a three (3) month statutory period for reply. Petitioner attempted to file an amendment and a three (3) month extension of time on 31 March, 2005, however, that reply was untimely. Notice of Abandonment was mailed on 3 June, 2005.

Petitioner requests that the fee for the untimely extension of time on 31 March, 2005, be applied towards the petition fee. In this regard, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.² As the extension of time filed on 31 March, 2005, was filed after the maximum extendable period for reply to the Notice mailed on 30 September, 2004, the fee is unnecessary and it is appropriate to apply it towards the petition fee. As such, the \$510.00 paid on 31 March, 2005, will be applied towards the petition fee of \$750.00.

This application is being referred to Technology Center 3765 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

² See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).